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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,282	02/17/2004	Charles L. Deschenes	81204D3	7074
23685	7590	11/23/2010		
KRIEGSMAN & KRIEGSMAN 30 TURNPIKE ROAD, SUITE 9 SOUTHBOROUGH, MA 01772				
EXAMINER				
VARGOT, MATHEU'D				
ART UNIT		PAPER NUMBER		
1742				
MAIL DATE		DELIVERY MODE		
11/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,282

Applicant(s)

DESCHENES ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70,74-80 and 82-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70,74-80 and 82-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 70, 74-76 and 82-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mello et al in view of Williams et al and Winstead (see abstract and Fig. 1) essentially for reasons of record noting the following.

While applicant states that Winstead does not teach continuous rotary extrusion molding by "continuously extruding molten plastic into a molding wheel", it is submitted that this is what is occurring in Figure 1 of the reference. The extruder die 14 outputs molten thermoplastic which passes over a roller as an extruded web 16 and goes directly into the molding wheel. There would appear to be no question—or at least it appears to be quite obvious—that the web 16 is still molten to some extent, as it has not been cooled to any appreciable extent. While Figure 3 of the reference is directed to orienting the web and cooling it, Figure 1 is not. Hence, the instant claims as amended are submitted to be properly rejected over the combination as applied. Mello et al does not recite exactly what materials are used to make the packaging. It is noted that Williams et al (see col. 2, penultimate line) teaches polypropylene, albeit in reference to a flexible material. However, one of ordinary skill in this art knows how to make polypropylene and other plastics as flexible or rigid, dependent on the exact product being molded. Polypropylene is nothing but a conventionally molded plastic and to

make such a plastic as a rigid molded container would have been obvious to one of ordinary skill in the art.

2. Claims 77-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mello et al in view of Williams et al and Winstead (see abstract and Fig. 1) and further in view of Andersen, III for reasons of record as set forth in paragraph 1, supra and paragraph 2 of the last office action.

3. Applicant's arguments filed September 2, 2010 have been fully considered but they are not persuasive. Applicant submits that the instant continuous extrusion of molten plastic into a molding wheel is not taught. However, as noted in paragraph 1, supra, such is submitted to be taught in Winstead and hence the claims must stand as rejected. While the embodiment of Figure 3 of Winstead clearly shows the film being cooled so that a molten extrudate would not be going into the molding wheel, such is not the case with Figure 1 of the reference.

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
November 21, 2010

/Mathieu D. Vargot/
Primary Examiner, Art Unit 1742